

REMARKS**1. Interview Summary**

The Applicant and the Applicant's representative would like to thank the examiner for the courtesies extended during the examiner interview held at the USPTO on August 17, 2010. Below is a summary of the interview.

The examiner met with Applicant's representative, and was shown a sample of the invention and samples of prior art devices. Proposed claim amendments were discussed and the references to Sugo and Ito further cited in this response. No agreement was reached.

2. Status of Claims and Amendments.

Reconsideration of the above-identified application in view of the foregoing remarks is respectfully requested. Claims 1, 3-10, 12-14, 16-19 and 26-31 are pending, and claims 2, 11, 15, 20-25 are canceled in the present application.

3. Rejection under 35 USC §112

Claims 1, 3-10, 12-14, 16-19, and 26-31 were rejected under 35 USC §112 first paragraph as failing to comply with written description requirement regarding the claim limitation in claims 1 & 10 for the term "solid." Applicants disagree with the Examiner's explanation that something solid is usually associated with something firm and hard. There are many "solid" objects that are made of very flexible material. Support for the term "solid" is clearly shown in Figures 1-2, and depicts the invention is not a mass of spheres or flakes or other non-solid objects.

The Applicant has chosen the term “solid” to illustrate the invention is not a mass of spheres or flakes or other non-solid objects. Support for this term is found throughout the specification especially at Figures 1-2. Withdrawal of the rejection is respectfully requested.

4. Rejections under 35 USC §103

The Examiner has rejected claims 1, 3, 5-9, and 27 as being unpatentable over U.S. Patent No. 5,641,482 (“Sugo”) in view of U.S. Patent No. 5,939,088 (“Ito”). The Examiner stated that Sugo is silent about the sheet having randomly formed, meandering and overlapped folds of various shapes and sizes, and a plurality of rigids and grooves, and flexibility to a degree that can wrap the body of the small animal and a size that covers at least the entire abdomen of the small animal, where the flexibility and size are such that the sheet is capable of being seamlessly folded onto itself. The Examiner further states that Ito discloses a mat having a sheet with such flexibility for the function described, and it would have been obvious to combine the composition in Sugo with the flexibility in the Ito reference. Applicants traverse the rejection and submit that a *prima facie* case of obviousness has not been made.

a. Sugo and Ito Teach Away from what Applicants Claim

Applicant claims a solid and reusable sheet having a recoverable deodorization capacity when washed alone or with alkaline or acidic substances. The claimed sheet further includes randomly formed, meandering and overlapped folds of various shapes and sizes, and a plurality of rigids and grooves formed on the folds to make walls. Animal excrements are trapped in the ridges and grooves formed on the folds. The present invention, as being different from other prior art that use small pieces such as chips for the floor mat, prevents excrements from being spread over the floor as the small animal moves around the cage along with small chips that are adhered with their excrements, thereby avoiding deterioration of the rearing

environment. Furthermore, the present invention provides a sheet of a claimed composition that provides a temperature holding property and a flexibility not taught or suggested by the cited references.

Sugo is silent as to a temperature holding property sufficient to hold the body temperature of small animals. There is no teaching or suggestion in Sugo to support the Examiner's argument that Sugo teaches a temperature holding property.

Furthermore, Sugo teaches away from the claimed composition having the claimed flexibility property. Sugo teaches a formed article comprising a base material having a "aggregate" form, such as a mat, non-woven fabric, or a mass of spheres or flakes. It is well known that "aggregate" means a mass sum or whole, crowded or massed into a dense cluster. (see e.g., <http://www.thefreedictionary.com/aggregate>). Such a composition with a dense structure could not provide the flexibility or be the composition claimed.

The Ito reference does not fill the deficiencies of the Sugo reference. Ito discloses a component capable of changing color when in contact with urine or other waste products (see Abstract). Figure 4 of Ito does not teach the flexibility property claimed as the Examiner contends. In fact Ito teaches away from the claimed invention and flexibility property claimed by requiring the component to be placed in a capsule that is activated when broken. (see Col. 3, lines 64-67). Such a flexibility property as claimed by the Applicant would prematurely activate the component by breaking the capsule. Furthermore, detection components that are sprinkled, painted or impregnated would have their purposes defeated by the flexibility property claimed by the Applicant, because the component would not be exposed for activation as intended in the Ito reference. (see Ito, Col. 4, lines 10-15 and 44-56)

It is well settled that prior art references must be considered in its entirety, i.e., as a whole, including portions that would teach away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). For at least these reasons independent claims 1 and 10 are believed to be allowable, and the claims that depend thereon which further limit these claims should also be held allowable. Withdrawal of the rejections in view of Sugo and Ito are respectfully requested.

b. The Combination of Newton with Sugo and Ito Do Not Teach or Suggest the Claim Invention and Defeat The Purpose of the Claimed Invention

Claims 4 and 28 were rejected under 35 USC 103 as unpatentable over Sugo as modified by Ito and further in view of Newton.

The Examiner stated that Sugo and Ito are silent about the sheet having tear resistance. The Examiner further stated that Newton teaches a sheet made out of tear resistant material, and the Applicant's invention would have been obvious in view of Newton, Sugo and Ito. The Applicant traverses the rejection and submits that a *prima facie* case of obviousness has not been made.

Applicant repeats the same arguments with respect to Sugo and Ito et al previously made and add the following remarks regarding Newton. Newton discloses a multipurpose disposable contour sheet. Newton's disposable contour sheet is formed of a single ***flat unbroken and unfolded*** rectangular sheet that is resistant to soiling snagging, running and tearing in combination with a strip of elastic tape attached along substantially the entirety of a peripheral edge of the fabric sheet.(See Newton at [0011], emphasis added).

Newton clearly teaches away from what the Applicant claims by disclosing a "disposable and unfolded" sheet that is required by Newton's disclosure to perform the functions

recited in Newton. Newton's tear damage property recited by the examiner is at the cost of the Applicant's claimed flexibility property. There is no flexibility in Newton because the sheet clearly needs to be flat and unbroken in Newton.

It is well settled that references must be taken in their entireties, including those portions which argue against obviousness. The Examiner is using impermissible hindsight to pick and choose elements of the claimed invention. The obviousness analysis under § 103 cannot be conducted with such hindsight in view of the invention in question, but instead, the prior art must be considered as it would have been by the hypothetical artisan at a time just before the invention was made. See Al-Site Corp. v. VSI Int'l, Inc., 174 F.3d 1308, 1324 (Fed. Cir. 1999); W.L. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553 (Fed. Cir. 1983). Such an artisan would not have looked at the Newton reference because it teaches away from the claimed composition and flexibility property. For at least these reasons, withdrawal of the rejection is respectfully requested.

c. Otsuji, Sugo, and Ito Teach Away from the Claimed Invention

Claims 10, 13, 14, 16-19, 26 29 and 31 were rejected over Sugo in view of Ito et al and further in view of U.S. Patent Publication 2001/0009142 ("Otsuji et al"). The Examiner stated Sugo and Ito are silent as to a small animal rearing cage comprising a rearing box having a floor and a wall provided at the circumference of the floor. The examiner states that Otsuji discloses such a cage and that it would have been obvious to combine the teaching of Sugo and Ito with Otsuji to obtain the applicant's invention.

Applicant traverses the rejection and contends a *prima facie* case of obviousness has not been made. Applicant repeats the arguments previously made above with respect to Sugo and Ito et al.

Otsuji discloses an absorbent mat for excreta treatment. As shown in Figure 1 of Otsuji, a mat (1) is placed inside a tray (2). A draining board (3) is placed on top of mat (1) to allow excreta to flow into the absorbent mat. [See, Otsuji at [0063]-[0064]].

Otsuji does not disclose a rearing box having a floor and a wall to restrain a small animal therein as claimed. In fact, the structure in Otsuji could not restrain the animal at all because there are no walls in the tray (2) to prevent a small animal from escaping the structure. In contrast, the Applicant claims a rearing box having a floor and a wall for restraining the small animal within the rearing cage.

Furthermore, even if the Examiner's proposed modifications were made, a structure as disclosed in view of Sugo, Ito and Otsuji would make a structure unsatisfactory for its intended purposes. The tray in Otsuji is incapable of rearing a small animal. In addition the absorbent mat in Otsuji is held in place by a draining board (3) making folding of the mat (1) impossible.

As previously explained, Sugo and Ito do not fill these deficiencies of the Otsuji reference. Sugo does not disclose the folding or improved cellulose fabric as claimed. Ito also does not disclose the folds as claimed, and in fact teaches away from such folds by requiring a component released by breaking of caps to indicate contact, thereby requiring the sheet to lie flat. A sheet with the claimed composition of the present invention allowing the flexibility properties claimed by the Applicant would interfere with the disclosed purpose in Ito et al. and Newton. Therefore, withdrawal of the rejection is, therefore, respectfully requested.

d. . Rejection under 35 USC §103 for Sugo as modified by Ito and Otsuji and further in view of Newton-Claims 12 & 30

Claims 12 & 30 were rejected over Sugo as being unpatentable over Sugo as modified by Ito et al and Otsuji et al as applied to claim 10 and further in view of Newton.

Applicants traverse the rejection and contend a *prima facie* case of obviousness has not been made.

Applicants repeat the same arguments previously made above. Newton's disposable contour sheet is formed of a single flat unbroken and unfolded rectangular sheet that is resistant to soiling snagging, running and tearing in combination with a strip of elastic tape attached along substantially the entirety of a peripheral edge of the fabric sheet. Newton merely discloses a disposable contour cover sheet and is silent as to having a sheet with tearing resistant properties as the Applicant claims.

In fact, Newton teaches away from what the Applicant claims by disclosing a disposable and unfolded sheet.[See Newton Summary of Invention]. Newton does not address the tearing resistant property needed for a sheet that is reusable and folded as the applicant claims. In fact, Newton's tear resistance, if any, would be far less than needed for the applicant's invention that has a reusable and folded sheet. Newton does not even contemplate, teach or suggest such tear resistance for a reusable and folded sheet as the Applicant claims.

Clearly, as shown above, Newton has substantial structural and functional differences from what the Applicants claim. Newton teaches away from having such a reusable tear resistant sheet as the Applicants claim. The material disclosed in Newton illustrates tear resistance for the disposable embodiment only [See Newton at [0033]].

Even if the apparatus was modified as the Examiner suggested, the above combination of references would not have made the Applicants invention obvious since the apparatus would be rendered inoperable. The mat taught in Newton can only operate if it is unfolded. There are no teachings or suggestions in the above references to make a folded sheet

as the Applicant now claims. For at least these reasons, withdrawal of the rejection is respectfully rejected.

CONCLUSION

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of the present application.

If any issues remain, or if the Examiner has any suggestions for expediting allowance of this application, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below. Favorable reconsideration is respectfully requested.

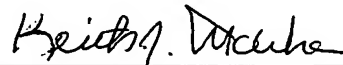
AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for consideration of this Amendment or credit any overpayment to Deposit Account No. 50-1145, Order No. 704076.00060. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
DAY PITNEY, L.L.P.

Dated: August 19, 2010

By:



Keith McWha
Registration No. 44, 235

Correspondence Address:

DAY PITNEY, L.L.P.
7 Times Square
New York, NY 10036-7311
(212)938-8215 Direct Telephone
(212)297-5800 Firm Telephone
(212)916-2940 Facsimile